

Ref

OPINIONS AND DECLARATIONS RENDERED BY THE INTER- NATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

Edited by

FRANCIS HEMMING, C.M.G., C.B.E.,
Secretary to the Commission

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OPINION 339

Acceptance of the name *concolor* Woodbury, 1929, as published in the combination *Crotalus concolor*, as the name for the Yellow Rattlesnake of the Colorado River Basin



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INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

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OPINION 339

ACCEPTANCE OF THE NAME " CONCOLOR " WOODBURY, 1929, AS PUBLISHED IN THE COMBINATION " CROTALUS CONCOLOR ", AS THE NAME FOR THE YELLOW RATTLESNAKE OF THE COLORADO RIVER BASIN

RULING :—(1) The name *concolor* Jan, 1859, as published as a *nomen nudum* in the combination *Crotalus durissus* var. *concolor*, did not acquire the status of availability (a) by being published in the combination *Crotalus durissus* var. *concolor* by Garman in 1883 as a doubtful synonym of *Crotalus horridus* Linnaeus, 1758, without an independent indication, definition or description, or (b) by being so published in the synonymy of the foregoing species (i) in the combination *Crotalus durissus cincolor* [sic] by Notestein in 1905, or (ii) in the combination *Crotalus durissus* var. *concolor* by Gloyd in 1940.

(2) In view of (1) above, the specific name *concolor* Woodbury, 1929, as published in the combination *Crotalus concolor*, is not an invalid junior homonym in the genus *Crotalus* Linnaeus, 1758.

(3) The under-mentioned specific name is hereby placed on the *Official List of Specific Names in Zoology* as Name 451: *concolor* Woodbury, 1929, as published in the combination *Crotalus concolor* (Class Reptilia, Order Squamata).

(4) The under-mentioned specific names are hereby placed on the *Official Index of Rejected and Invalid Specific Names in Zoology* as Name Nos. 118 to 121 respectively:—(a) *concolor* Jan, 1859, as published in the combination *Crotalus durissus* var. *concolor* (a *nomen nudum*); (b) *concolor* Garman (by whom attributed to Jan), 1883, as published in the combination *Crotalus durissus* var. *concolor*, as rejected under (1)(a) above; (c) *cincolor* [sic] (an Invalid Original Spelling

for *concolor*) Notestein (by whom attributed to "J."), 1905, as published in the combination *Crotalus durissus cincolor*, as rejected under (1)(b)(i) above ; (d) *concolor* Gloyd (by whom attributed to Jan), 1940, as published in the combination *Crotalus durissus* var. *concolor*, as rejected under (1)(b)(ii) above.

I.—THE STATEMENT OF THE CASE

On 25th September 1944 Dr. Hobart M. Smith (then of the *University of Rochester, College of Arts and Science, Rochester, N.Y., U.S.A.* and now of the *University of Illinois, Department of Zoology, Urbana, Illinois, U.S.A.*) addressed a letter to the International Commission covering a statement prepared jointly with Dr. Angus M. Woodbury (*University of Utah, Division of Biology, Salt Lake City, Utah, U.S.A.*) and himself entitled "The case of *Crotalus concolor*". For the reasons explained in paragraph 4 below, extensive correspondence on this question ensued between the Secretary to the Commission and Dr. Hobart M. Smith and Dr. Angus Woodbury and it was not until January 1951 that in a revised form it was formally submitted to the Commission. The application so revised was as follows :—

**On the correct name for the yellow rattlesnake from
the Colorado River Basin**

By ANGUS M. WOODBURY

(*University of Utah, Salt Lake City, Utah, U.S.A.*)

and

HOBART M. SMITH

(*University of Illinois, Urbana, Ill., U.S.A.*)

1. In 1929 (*Bull. Univ. Utah*, 20 (6) : 3) Woodbury published the name *Crotalus concolor* and applied it to a race of rattlesnakes of the Colorado River Basin (type locality at the base of the Henry Mountains, Garfield County, Utah) now assigned to the species *Crotalus viridis*.

2. In 1930 (*Trans. San. Diego Soc. nat. Hist.* 6 : 111) Klauber published the name *Crotalus confluentus decolor* and applied it to a race of rattlesnakes of the Colorado River Basin (type locality at Grand Junction in western Colorado) now also assigned to the species *Crotalus viridis*.

3. In the present state of knowledge *Crotalus viridis concolor* Woodbury, 1929, and *Crotalus viridis decolor* Klauber, 1930, are regarded as applying to the same race, and *C. viridis concolor* Woodbury, by virtue of its priority, was universally regarded as the valid name for the race concerned until 1940.

4. In 1940 ("Genera *Sistruras* and *Crotalus*." *Spec. Publ. Chicago Acad. Sci.* 4 : 216—217) Gloyd applied the name *Crotalus viridis decolor* Klauber to the sub-species in question on the grounds that he regarded *concolor* Woodbury as "preoccupied by *concolor* Jan (1859 : 153), a *nomen nudum* which originally appeared as a variety of *C. durissus (horridus)*, and was later placed in the synonymy of *C. horridus* by Garman (1883 : 175) and Stejneger (1895 : 427) . . . the association of Jan's name with *C. horridus* by subsequent reviewers of the genus gives it a status as a synonym of that species, and *concolor* Woodbury (1929) is therefore a homonym."

5. The facts about the alleged name *concolor* Jan are as follows :

- (1) As stated by Gloyd in the passage quoted above, the name *Crotalus durissus* var. *concolor* Jan was published in 1859 (*Prodrome d'une iconographie descriptive des ophiidiens et description sommaire de nouvelles espèces de serpents venimeux*, Paris : 153) as a *nomen nudum*.
- (2) In 1883 Garman (*Mem. Mus. comp. Zool.* 8 : 175) cited *Crotalus durissus* var. *concolor* Jan as a questionable or possible synonym of *Crotalus horridus* Linnaeus, 1758.
- (3) In 1895 Stejneger (*Ann. Rept. U.S. Nat. Mus.* 1895 : 427) also cited *Crotalus durissus* var. *concolor* Jan as a questionable or possible synonym of *Crotalus horridus* Linnaeus, 1758.
- (4) Finally, Gloyd (1940 : 171) cited the name *Crotalus durissus* var. *concolor* Jan as a synonym of *Crotalus horridus horridus* Linnaeus without a question.

6. The question now arises as to which, if any, of the above actions conferred availability on the trivial name *concolor* Jan.

7. There can be no doubt that Gloyd conferred availability on the name *concolor* when he definitely synonymised it with the previously published name *Crotalus horridus horridus* Linnaeus, assuming it had not already acquired availability by any earlier action ; but it is clear from the decisions taken by the International Congress of Zoology in

Paris in 1948, on the advice of the International Commission on Zoological Nomenclature, that Gloyd's action in itself conferred availability on the name *concolor* only as from 1940, and that the name should be attributed not to Jan but to Gloyd himself. (cf. *Bull. Zool. Nomencl.* 4 : 145—146, 563). Thus, Gloyd's action in establishing the name *C. horridus concolor* Gloyd, 1940, could in no circumstances have had the effect of invalidating *concolor* Woodbury, 1929, since *concolor* Gloyd, 1940, is itself an invalid junior homonym of *concolor* Woodbury, 1929.

8. The only relevant issue, therefore, and the one which has been the subject of disagreement among specialists, is whether availability was conferred upon the trivial name *concolor* by Garman (1883) when he published that name (which had previously existed only as a *nomen nudum*) as a questionable synonym of *Crotalus horridus* Linnaeus, 1758. Gloyd (loc. cit.) and Smith (*Copeia*, 1943 : 251) have argued that Garman's action in 1883 did confer availability on the trivial name *concolor*, while the Stejneger and Barbour checklist (*Bull. M.C.Z.*, Harvard, Mass., 1943), Woodbury (*Copeia*, 1942 : 258) and Klauber (*Trans. San. Diego Soc. nat. Hist.* 6 : 242) have taken the opposite view.

9. The object of the present paper is a twofold one :

- (1) to secure an authoritative ruling from the International Commission on the question whether the citation of a *nomen nudum* as a questionable or possible synonym of an available name confers availability upon the name so cited ; and
- (2) to settle definitely the question of the correct name of the race of yellow rattlesnake from the Colorado River Basin.

10. On the second of these questions, in view of the difference of opinion which has arisen during the last ten years on this matter, the acceptance of either of the two alternative solutions would cause a certain amount of short-term disturbance and confusion. We should like to propose, therefore, that the matter be settled once and for all by the Commission placing on the *Official List of Specific Trivial Names in Zoology* whichever of the two names *concolor* Woodbury, 1929, or *decolor* Klauber, 1930 turns out, in the light of the decision on the matter of principle raised in point (1) of the previous paragraph, to be the correct name under the *Règles* for the subspecies concerned.

II.—THE SUBSEQUENT HISTORY OF THE CASE

2. **Registration of the present application :** On receipt of Dr. Hobart M. Smith's letter of 25th September 1944, the

questions raised by the specific name *concolor* as published by Jan in 1859 as a *nomen nudum* in the genus *Crotalus* Linnaeus, 1758, and as subsequently published by various authors in combination with the same generic name was allotted the Registered Number Z.N.(S.) 176.

3. Postponement of the present application at Paris in 1948 :

At the time when the Agenda was being prepared for the Session of the International Commission to be held in Paris in 1948 it was evident that the greater part of the time at that Session would be required for the consideration of the proposals which had been submitted for the clarification, amendment and expansion of the *Règles* and that the time remaining for the consideration of applications relating to individual names would not be sufficient to permit of decisions being taken on all the applications then awaiting attention. It was inevitable therefore that some of those applications would need to be postponed. The present was one of the applications which for the foregoing reason was not brought before the Commission at its Paris Session.

4. Revision of the present application in 1950/1951 :

In the period immediately following the close of the Paris Session of the Commission the entire resources of its Office were devoted to the preparation of the Official Record of the Proceedings of the Commission at that Session and it was not until 1950 that it was possible to resume work on the present application. Like all other applications then outstanding, the present application required certain minor revisions in order to bring it into line with the procedure prescribed by the Thirteenth International Congress of Zoology, Paris, 1948, under which in future it became the duty of the Commission to place on the *Official List* and the *Official Index* of specific names any such names which in its *Opinions* it might accept as available names or, as the case might be, it might reject under its Plenary Powers or might declare to be invalid under the *Règles*. Apart however from the formal changes so required, the present application raised two questions of principle, namely :—(1) whether a specific name which acquired currency through having been published as a *nomen nudum* or through having been made known to workers as a manuscript name obtained for itself the status of availability if subsequently published in the synonymy of some previously established nominal species ; (2) whether a specific name acquired

the status of availability if the only "indication" published for it was a qualified (i.e. conditional) synonymic reference to some previously published description or figure. As regards the first of these questions, the decision taken by the Paris Congress, when incorporating *Opinion 4* into the *Règles*, clearly laid it down that a specific name acquired availability if published in a specific synonymy (1950, *Bull. zool. Nomencl.* 4 : 145). The portion of the present application affected by this decision was redrafted accordingly. As regards the second of the foregoing questions it appeared both to the Secretary to the Commission and to the applicants that a specific name published with a qualified synonymic reference as its sole indication could not reasonably be regarded as having acquired the status of availability by reason of having been so published. It was felt, however, that, as this was a matter on which the *Règles* contained no express provision and on which no Ruling had ever been given by the Commission, it was desirable that the opportunity presented by the present application should be taken to seek such a Ruling. It was accordingly agreed between the Secretary and the applicants that the former should prepare a short note asking the Commission to render a *Declaration*¹ that a name so published does not thereby acquire the status of availability. The necessary revisions of the application relating to the name to be used for the Yellow Rattlesnake of the Colorado River Basin was completed by January 1951, by which date also Mr. Hemming's application for the adoption of a *Declaration* on the lines indicated above had also been completed.

5. Publication of the present application : The application submitted by Dr. Angus M. Woodbury and Professor Hobart M. Smith was sent to the printer in January 1951, together with Mr. Hemming's application for a Ruling declaring against the availability of names possessing, as an "indication", only a qualified synonymic reference. These papers were published on 28th September 1951 in Part 4 of volume 6 of the *Bulletin of Zoological Nomenclature* (Woodbury & Smith, 1951, *Bull. zool. Nomencl.* 6 : 99—100 ; Hemming, 1951, *ibid.* 6 : 103—105).

¹ This proposal was subsequently approved by the Commission. Its decision on this matter has since been embodied in *Declaration 16* (1954, *Ops. Decls. int. Comm. zool. Nomencl.* 9 : xxxvii—xlvi).

6. Supply of additional information by Dr. Laurence M. Klauber (San Diego, California, U.S.A.) : In 1950 Dr. Lawrence M. Klauber (*San Diego, California, U.S.A.*) addressed a letter to the Secretary to the Commission in which he posed a theoretical case in which the issues involved—the status of specific names published in synonymies—resembled those raised in the present case. In replying to this letter on 3rd January 1951, Mr. Hemming cited the case of the name *concolor*, as published by Jan and subsequent authors, as an illustration of the points involved in an instance in which Dr. Klauber was personally concerned, having regard to the fact that, if it were to be found that the name *concolor* Woodbury, 1929, for the Yellow or Midget Rattlesnake of the Colorado River Basin was invalid in the genus *Crotalus* as being a junior homonym, the oldest available name for the snake concerned would be *decolor* Klauber, 1930. In replying on 9th January 1951, Dr. Klauber drew attention to the fact that there existed in the literature a case in which the *nomen nudum concolor* Jan, 1859, had been definitely published as a junior synonym of the name of a previously established nominal species, prior to that name having been so published by Gloyd in 1940. It was by Notestein in 1905 that the name *concolor* (misspelled *cincolor*) had been so published. On the general question of the relative merits of the names *concolor* Woodbury, 1929, and *decolor* Klauber, 1930, Dr. Klauber stated that these two names had, he believed, been used with approximately equal frequency. Dr. Klauber added that, if the Commission were to decide in favour of conserving the name *concolor* Woodbury, he, as the author of the name *decolor* Klauber, would not have the slightest objection. On receiving Dr. Klauber's letter, which was as follows, Mr. Hemming decided that it should be published at the same time as the application submitted by Dr. Angus M. Woodbury and Professor Hobart M. Smith, and arrangements were made to this end (Klauber, 1951, *Bull. zool. Nomencl.* 6 : 101) :—

**On the question of the correct trivial name for the Yellow or
Midget Rattlesnake of the Colorado River Basin**

By LAURENCE M. KLAUBER
(*San Diego, California, U.S.A.*)

I greatly appreciate the complete discussion contained in your letter of January 3rd (Z.N.(S.)176) . . . I had not known that a ruling had been

sought in the particular case of the yellow rattlesnake of the Colorado River Basin. The following has a bearing, for the name "*Crotalus durissus cincolor* [sic] J." was placed in the synonymy of *Crotalus horridus* Linnaeus in a paper entitled "The Ophidia of Michigan with an Analytical Key" by F. N. Notestein, Seventh Report, Michigan Academy of Science, pp. 111—125, at page 123 (1905). Undoubtedly *cincolor* was a misprint for *concolor*: the paper is full of an almost unbelievable number of typographical errors, as witness *Candisona* for *Caudisona*, *articandatus* for *atricaundatus*, and *dorissus* for *durissus* among the rattlers alone. Among the many misspelled names of authorities cited in the abbreviation list beginning at the bottom of page 122, is that of the author himself. This possibly explains why "J." is stated to stand for "Jordan", whereas "Jan" is intended.

May I say that, should the Commission, now having authority to conserve trivial names, desire to establish *C. v. concolor* Woodbury, 1929, as the proper name for the yellow or midget rattlesnake over *C. v. decolor* Klauber, 1930, I should not have the slightest objection. I believe the two names have been used with approximately equal frequency since their original publication. Gloyd mentions the problem in a footnote (Chicago Academy of Sciences, Special Publication No. 4, p. 216, 1940). I shall be pleased to see the question resolved, as I expect to publish a check list of the rattlers in a book now in course of preparation.

7. Supplementary note by Dr. Angus M. Woodbury and Professor Hobart M. Smith : On receiving Dr. Klauber's letter of 9th January 1951, Mr. Hemming communicated copies of it to Dr. Angus M. Woodbury and Professor Hobart M. Smith (the original applicants in this case) and suggested that, in the light of the additional information brought forward by Dr. Klauber, those specialists might care themselves to furnish a supplementary statement, which he added, he would arrange to be published in the *Bulletin of Zoological Nomenclature* at the same time as their original application and Dr. Klauber's letter. Dr. Woodbury and Professor Smith accepted this suggestion and on 10th April 1951 furnished a note in which they agreed that in the circumstances disclosed by Dr. Klauber's letter there could be no doubt that, having regard to the decision taken by the Thirteenth International Congress of Zoology, Paris, 1948, when embodying in the *Règles* the Ruling given in *Opinion 4* (relating to the availability of names first published in the synonymy of other names), the name *concolor* Woodbury, 1929, was an invalid junior homonym in the genus *Crotalus* and that the oldest available name for the Yellow Rattlesnake of the Colorado River Basin was *decolor*

Klauber, 1930. They added that, like Dr. Klauber, they had no special preference for either of the names involved in this case and that their sole object in submitting their original application had been to obtain an authoritative Ruling from the Commission on the question as to what was the correct name for the species concerned. The Supplementary Note so received, which was as follows, was at once sent to the printer and was published concurrently with the original application in this case (Woodbury & Smith, 1951, *Bull. zool. Nomencl.* 6 : 101—102) :—

**On the correct trivial name of the yellow rattlesnake
of the Colorado River Basin :
supplementary note**

By ANGUS M. WOODBURY

(University of Utah, Salt Lake City, Utah, U.S.A.),

and

HOBART M. SMITH

(University of Illinois, Urbana, Ill., U.S.A.)

1. When we submitted to the International Commission on Zoological Nomenclature our application for a ruling regarding the trivial name properly applicable to the Yellow Rattlesnake of the Colorado River Basin, our sole object was to obtain an authoritative pronouncement which would secure that for the future the same name was always applied to this snake. We ourselves had no special preference for either of the two possible names, viz., (1) *concolor* Woodbury, 1929, as published as a subspecific trivial name in the combination *Crotalus viridis concolor*, (2) *decolor* Klauber, 1930, as published as a subspecific trivial name in the combination *Crotalus confluentus decolor*.

2. The Secretary to the International Commission has informed us that, since our application was sent to the press, he has received a letter from Mr. Laurence M. Klauber (*San Diego, California*) drawing attention to the use of the trivial name *concolor* in the genus *Crotalus* prior to its use by Woodbury in 1929, namely by Notestein (F.N.) who in 1905 definitely synonymised what he called “*Crotalus durissus cincolor* [sic] J.” with *Crotalus horridus* Linnaeus. Mr. Hemming has furnished us with a copy of Mr. Klauber’s letter and we agree that the information so brought forward introduces a radical change into the situation. It is true that in Notestein’s paper Jan’s manuscript name *concolor* was misspelt “*cincolor*”, but, in view (especially) of the large number of other misprints in Notestein’s paper (of which Mr. Klauber gives a number of examples in his letter), this variant must certainly be regarded as falling within the scope of Article 19

and therefore as being the equivalent of *concolor*. In these circumstances, the subspecific trivial name *concolor* Woodbury, 1929, not only is possibly a junior homonym of *concolor* Garman, 1883 (the question on which we asked for a ruling from the International Commission), but is also an undoubted junior homonym of *concolor* (emend. of *cincolor*) Notestein, 1905 (a fact of which we were previously unaware).

3. In the light of the developments described above, there is no longer any doubt as to the correct name of the yellow rattlesnake of the Colorado River Basin, for the final elimination, as a homonym, of the name *concolor* Woodbury, 1929, leaves *decolor* Klauber, 1930, as indisputably the oldest available name for that snake. Accordingly, while we still ask the International Commission to give a ruling on the general question whether the qualified citation of a trivial name in a synonymy confers any availability upon that trivial name, we desire to substitute for the second of the proposals which we submitted (namely that set out in paragraph 10 of our application) a proposal that the trivial name *decolor* Klauber, 1930, as published in the combination *Crotalus confluentus decolor*, be placed upon the *Official List of Specific Trivial Names in Zoology*.

8. Comment received from Professor Dr. Robert Mertens (Natur-Museum und Forschungs-Institut Senckenberg, Senckenberg-Anlage, Frankfurt a. Main, Germany) : On 24th October 1951, Professor Dr. Robert Mertens (*Natur-Museum und Forschungs-Institut Senckenberg, Senckenberg-Anlage, Frankfurt a. Main*) addressed a letter to the Commission in which he associated himself with the view expressed in a recently published paper by Stresemann and Mayr that the decision taken by the Thirteenth International Congress of Zoology, Paris, 1948, when embodying in the *Règles* the decision given in *Opinion 4* that a name published in a synonymy acquires availability thereby, was misconceived and should be reversed by the next International Congress of Zoology. Professor Mertens accordingly took the view that the name *concolor* Woodbury, 1929, ought not to be rejected as a junior homonym in the genus *Crotalus* by reason of the name *concolor* having been previously published as a rejected synonym in the synonymy of species of that genus. Professor Mertens's letter was as follows (Mertens, 1952, *Bull. zool. Nomencl.* 6 : 171) :—

Im Gegensatz zu der von Woodbury & Smith (*Bull. zool. Nomencl.* 6, Part 4, pag. 102, 1951) geäußerten Ansicht, dass *decolor* Klauber, 1930, der korrekte Name für die im Titel bezeichnete Klapperschlange ist, stehe ich auf dem Standpunkte, dass dieses Tier als *concolor* Woodbury, 1929, su bezeichnen ist. Ich vertrete die Ansicht, dass *concolor*

Jan, 1859, als *nomen nudum* keine Rechtskraft dadurch erlangt hat, dass es von einem späteren Autor (Notestein 1905) zu einem Synonym von *Crotalus horridus* L. erklärt worden ist; *concolor* Woodbury, 1929, wird mich durch eine eindeutige Synonymisierung des *nomen nudum concolor* Jan nicht präokkupert. Eine nähere Begründung dieser Ansicht findet man bei Stresemann & Mayr, *Senckenbergiana* 32, Nr. 1/4, pag. 211—218, 1951.

9. Review in March 1952 of the stage reached in the present case : On 28th March 1952 the prescribed waiting period of six months following the publication in the *Bulletin of Zoological Nomenclature* of the application submitted by Dr. Woodbury and Professor Smith came to a close, and the stage reached in this case was thereupon reviewed by Mr. Hemming as Secretary to the Commission, who then placed the following Minute on the Commission's File Z.N.(S.) 176 :—

**The Woodbury/Smith application regarding the trivial
name to be accepted for the Yellow (or Midget)
Rattlesnake of the Colorado River Basin**

MINUTE, dated 28th March 1952,

by FRANCIS HEMMING, C.M.G., C.B.E.

Secretary to the International Commission on Zoological Nomenclature

The application in regard to the trivial name to be accepted for the Yellow (or Midget) Rattlesnake of the Colorado River Basin submitted by Dr. Angus M. Woodbury and Professor Hobart M. Smith was published in the *Bulletin of Zoological Nomenclature* on 28th September 1951, and accordingly the Prescribed Six-Month Waiting Period expires today.

2. Other things being equal, this case has therefore now reached the stage at which a Voting Paper could be prepared for the purpose of obtaining a decision from the Commission, for, although a question of principle—the question whether the citation of a qualified synonymic reference constitutes an indication for the purposes of Proviso (a) to Article 25—arose in the course of the preparation of this application, it is not necessary to await the decision of the Commission on the foregoing question, since, whatever the answer that may be given by the Commission in the *Declaration* asked for, the name *concolor* has, as is now clear, been published without qualification of any kind by two authors since Garman (1883) (i.e. by Notestein, 1905; Gloyd, 1940) in the synonymies of species assigned by them to the genus *Crotalus* Linnaeus, 1758. Accordingly under the decision taken by the Paris (1948) Congress when embodying in the *Règles* the Ruling given in *Opinion* 4, the name *concolor* Woodbury, 1929, is undoubtedly an invalid junior homonym in the genus *Crotalus*.

3. Since the submission of the Woodbury/Smith application in the present case, the situation has been complicated by the submission to the Commission by Dr. Ernst Mayr (*The American Museum of Natural History, New York*) of an application asking that the Paris (1948) decision in relation to the status of names published in synonymies be re-examined with a view to its reversal by the next (Copenhagen, 1953) Congress of Zoology. If the foregoing proposal were to be adopted by the Copenhagen Congress, the situation in the present case would be radically altered, for in that event the name *concolor* Woodbury, 1929, as published in the combination *Crotalus concolor*, would unquestionably become not only an available name but also the oldest such name for the Rattlesnake in question.

4. As Secretary to the International Commission, I hold the view that it is the duty of the Commission to adjudicate on questions submitted to it in the light of the *Règles* as they exist at that time, and that it would normally be quite incorrect for the Commission to be deflected from that course in any given case by reason of the fact that notice had been received of a proposal for the amendment of some provision in the *Règles* relevant to the consideration of the case in question. In the present instance, however, it is necessary to take note of the fact that owing to the financial and administrative difficulties confronting the Commission, there are over one hundred cases in which decisions have been taken but as regards which *Opinions* have not yet been rendered². Thus, even if the Commission were now to take a decision on the present case in the light of the existing provisions in the *Règles*, it would be impossible to render an *Opinion* embodying that decision before the meeting of the International Congress of Zoology at Copenhagen next year. Moreover, the time required for preparing *Opinions* on cases which have already been settled will inevitably be so considerable that if a decision on the present case were to be postponed until after the Copenhagen Congress—by which time the Congress will have taken a decision on Dr. Mayr's proposal for the amendment of the provision in the *Règles* embodying the Ruling given in *Opinion* 4—it should be possible for the Commission, if it acts promptly, to take a decision on the present case and to render and publish an *Opinion* in regard to it only a few months³ later than the date on which an *Opinion* could be published if the Commission were now to proceed at once to take a decision on this case.

² *Opinions* have now been prepared and published in respect of all the cases here referred to.

³ If it had not been for the Directions given in the Secretary's Minute of 28th March 1952, a Voting Paper on the present case would have been issued to the Commission on 22nd May 1952, on which date Voting Papers were so issued in respect of the applications published in the same Part of the *Bulletin of Zoological Nomenclature*. The *Opinions* embodying the decisions taken on those Voting Papers were rendered on various dates in May 1954. The actual delay involved by the postponement of action on this case in 1952 amounted therefore only to about five months.

5. Accordingly, as Secretary to the International Commission on Zoological Nomenclature, I hereby direct (1) that the further consideration of the application relating to the name to be used for the Yellow (or Midget) Rattlesnake of the Colorado River Basin submitted jointly by Dr. Angus M. Woodbury and Professor Hobart M. Smith and published in the *Bulletin of Zoological Nomenclature* on 28th September 1951 be postponed until after the close of the Fourteenth International Congress of Zoology, Copenhagen, 1953, and (2) that the foregoing application be submitted to the Commission for vote as soon as may be practicable after the close of that Congress.

10. Decision by the Fourteenth International Congress of Zoology, Copenhagen, 1953, amending the provisions in the " Règles " relating to the status of names published in synonymies :

The question of the possible amendment of the provisions in the *Règles* relating to the status to be accorded to names published in synonymies was entered as Case No. 33 on the Agenda prepared for the Copenhagen Colloquium. In all, thirty-three documents were submitted in respect of this Item, of which the first (Document 33/1) was an historical survey by Mr. Hemming of the issues involved in this case, and the eighth (Document 33/8) the application received from Dr. Ernst Mayr referred to in paragraph 3 of the Secretary's Minute of 28th March 1952 reproduced in paragraph 9 above. Acting on the advice of the International Commission on Zoological Nomenclature, supported by the Colloquium on Zoological Nomenclature, the Fourteenth International Congress of Zoology, Copenhagen, 1953, decided to amend the *Règles*, as from some date to be specified, in such a way as to provide that " no name shall acquire availability by virtue of being published in a synonymy without an independent indication, definition or description or, in the case of a generic name, without the names of any included species being expressly cited in connection therewith " (1953, *Copenhagen Decisions zool. Nomencl.* : 63, Decision 115 (a)).

11. Action taken by the Secretary in February 1954 : In February 1954 this case was reviewed by the Secretary in the light of the decision taken by the Copenhagen (1953) Congress, the Official Record of which had been published a few weeks earlier, and on 12th February 1954 he addressed letters to Dr. Angus M. Woodbury and Professor Hobart M. Smith (the applicants in the present case) and to Dr. Lawrence M. Klauber, in which after referring to the decision taken in 1952 temporarily to postpone

the further consideration of the present case⁴ and after summarising the subsequent amendment of the *Règles* in relation to the status of names published in synonymies⁵, Mr. Hemming proceeded as follows :—

It is necessary now to consider the application of the foregoing decision to the name of the Colorado River Basin Yellow Rattlesnake. Here, the relevant points seem to be :—(a) that all those who have submitted views to the Commission (Woodbury ; Smith ; Klauber) have said that their sole objective was to secure an authoritative ruling as to the name which under the *Règles* is applicable to this snake, (b) that Klauber has explained that the name *concolor* Woodbury, 1929, and *decolor* Klauber, 1930, have been used “ with approximately equal frequency ”.

In these circumstances (1) *concolor* Woodbury is undoubtedly the oldest available name for this snake under the Copenhagen decision described above, and (2) it cannot be said that there has been such a preponderant usage of the name *decolor* Klauber (which depends for its availability on the acceptance as available of *concolor* Notestein, 1905, and/or *concolor* Gloyd, 1940, thus invalidating *concolor* Woodbury 1929) as would justify the adoption of that name in preference to the valid name *concolor* Woodbury. I am accordingly suggesting to the Commission that, in view of the Copenhagen Congress's decision, it should give a ruling in favour of the name *concolor* Woodbury. I assume from our previous correspondence that this course will meet with your approval.

III.—THE DECISION OF THE INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

12. Issue of Voting Paper V.P.(54)14 : On 27th February 1954 a Voting Paper (V.P.(54)14) was issued in which the Members of the Commission were invited to vote either for, or against, the proposal “ relating to the specific name to be used for the Yellow Rattlesnake of the Colorado River Basin [published in the *Bulletin of Zoological Nomenclature* as shown in Note 1

⁴ For the Minute by the Secretary, dated 28th March 1952, by which further consideration of this case was postponed until after the Copenhagen (1953) Congress, see paragraph 9 of the present *Opinion*.

⁵ For the decision in this matter taken by the Copenhagen (1953) Congress, see paragraph 10 of the present *Opinion*.

overleaf] set out at the foot of the present Voting Paper". The proposal so submitted was as follows :—

Revised Proposal submitted with Voting Paper V.P.(54)14

(1) The manuscript name *concolor* Jan did not acquire the status of availability either (a) through being published by Notestein (1905) in the combination *Crotalus durissus cincolor* [sic] J[an] in the synonymy of *Crotalus horridus* Linnaeus, 1758, or (b) through being published by Gloyd (1940) in the combination *Crotalus durissus* var. *concolor* Jan, similarly synonymised. (2) The specific name *concolor* Woodbury, 1929, as published in the combination *Crotalus concolor*, is therefore not an invalid junior secondary homonym, and it is hereby placed on the *Official List of Specific Names in Zoology*. (3) The under-mentioned specific names are hereby placed on the *Official Index of Rejected and Invalid Specific Names in Zoology* :—(a) *concolor* [emend. of *cincolor*] (J[an]MS) Notestein, 1905, as published in the combination *Crotalus durissus cincolor* ; (b) *concolor* (Jan MS) Gloyd, 1940, as published in the combination *Crotalus durissus* var *concolor*.

13. The Prescribed Voting Period : As the foregoing Voting Paper was issued under the Three-Month Rule, the Prescribed Voting Period closed on 27th May 1954.

14. Particulars of the Voting on Voting Paper V.P.(54)14 : At the close of the Prescribed Voting Period the state of the voting on Voting Paper V.P.(54)14 was as follows :—

(a) *Affirmative Votes had been given by the following eighteen (18) Commissioners (arranged in the order in which votes were received) :*

Sylvester-Bradley ; Holthuis ; Hering ; Vokes ; Boschma ;
Riley ; do Amaral ; Esaki ; Lemche ; Dymond ;
Hemming ; Bonnet ; Cabrera ; Mertens ; Pearson ;
Bradley (J. C.) ; Hankó ; Stoll ;

(b) *Negative Votes :*

None ;

(c) *Voting Paper not returned, one (1) :*

Jaczewski⁶.

⁶ An affirmative Vote was received on 3rd June 1954 from Commissioner Jaczewski after the close of the Prescribed Voting Period.

15. Declaration of Result of Vote : On 28th May 1954, Mr. Hemming, Secretary to the International Commission, acting as Returning Officer for the Vote taken on Voting Paper V.P.(54)14, signed a Certificate that the Votes cast were as set out in paragraph 14 above and declaring that the proposal submitted in the foregoing Voting Paper had been duly adopted and that the decision so taken was the decision of the International Commission in the matter aforesaid.

16. Addition of two further names to the "Official Index of Rejected and Invalid Specific Names in Zoology" : On 14th October 1954, when re-examining the papers relating to the present case preparatory to the preparation of the Ruling to be given in the present *Opinion*, Mr. Hemming, as Secretary to the Commission, placed the following Direction on the Commission's File Z.N.(S.) 176 :—

Addition of two objectively invalid names to the "Official Index of Rejected and Invalid Specific Names in Zoology"

DIRECTION, dated 14th October, 1954, given by

FRANCIS HEMMING, C.M.G., C.B.E.,

Secretary to the International Commission on Zoological Nomenclature

On re-examining the papers relating to the name to be accorded to the Yellow Rattlesnake of the Colorado River Basin, I find to my regret that through inadvertence the list of names recommended for addition to the *Official Index of Rejected and Invalid Specific Names in Zoology* in the proposal submitted with Voting Paper V.P.(54)14 was incomplete. Having regard to the General Directive issued to the International Commission by the Thirteenth International Congress of Zoology, Paris, 1948, relating to the placing of names on the *Official Indexes*, I now, as Secretary to the International Commission, hereby direct that, in addition to the names specified in the proposal referred to above, the under-mentioned objectively invalid names be placed on the foregoing *Official Index*, namely :—(1) *concolor* Jan, 1859, as published in the combination *Crotalus durissus* var. *concolor* (a *nomen nudum*) ; (2) *concolor* Garman (by whom the name was attributed to Jan), 1883, as published in the combination *Crotalus durissus* var. *concolor* in the synonymy of *Crotalus horridus* Linnaeus, 1758 (invalid, because published in a synonymy without an independent indication, definition or description).

2. I further direct that, as the name *cincolor* [sic] (an Invalid Original Spelling for *concolor*) Notestein, 1905, as published in the combination

Crotalus durissus cincolor, which it has been decided on Voting Paper V.P.(54)14, shall be placed on the *Official Index of Rejected and Invalid Specific Names in Zoology*, be entered thereon in the incorrect form *cincolor* in which it was originally published, having regard to the fact that, as this name was published in a synonymy without an independent indication, definition or description, it would have been invalid, even if it had been published with the correct spelling *concolor*.

17. Preparation of the Ruling given in the present "Opinion" :

On 18th October 1954, Mr. Hemming prepared the Ruling given in the present *Opinion* and at the same time signed a Certificate that the terms of that Ruling were in complete accord with those of the proposal approved by International Commission in its Vote on Voting Paper V.P.(54)14, subject to the adjustments specified in the Direction dated 14th October 1954, reproduced in paragraph 16 of the present *Opinion*.

18. Original references : The following are the original references for the names placed on *Official Lists* and *Official Indexes* by the Ruling given in the present *Opinion* :—

- concolor*, *Crotalus durissus* var., Jan, 1859, *Rev. Mag. Zool.*
 (2) 10 : 153 (often cited as follows by the title of the paper :
Prodrome Iconograph. descr. Ophid. : 153)
concolor, *Crotalus durissus* var., Garman (by whom this name
 was attributed to Jan), 1883, *Mem. Mus. comp. Zool.* 8 : 175
cincolor [sic], *Crotalus durissus*, Notestein (by whom this name was
 attributed to "J."), 1905, *Seventh Rep. Michigan Acad. Sci.* : 123
concolor, *Crotalus durissus* var., Gloyd (by whom this name was
 attributed to Jan), 1940, *Spec. Publ. Chicago Acad. Sci.* 4 : 171
concolor, *Crotalus*, Woodbury, 1929, *Bull. Univ. Utah* 20 (No. 6)
 : 3. (also published with sub-title "*Biol. Ser.*" 1 (No. 2))

19. As the present case is concerned only with certain specific names and no question of placing names on the *Official List of Family-Group Names in Zoology* arises in the present instance.

20. At the time of the submission of the application dealt with in the present *Opinion*, the expression prescribed for the second portion of the binomen which constitutes the scientific name of a species was the expression "trivial name" and the *Official List* reserved for recording such names was styled the *Official*

List of Specific Trivial Names in Zoology, the word "trivial" appearing also in the title of the *Official Index* reserved for recording rejected and invalid names of this category. Under a decision taken by the Fourteenth International Congress of Zoology, Copenhagen, 1953, the expression "specific name" was substituted for the expression "trivial name" and corresponding changes were made in the titles of the *Official List* and *Official Index* of such names (1953, *Copenhagen Decisions zool. Nomencl.* : 21). The changes in terminology so adopted have been incorporated in the Ruling given in the present *Opinion*.

21. The prescribed procedures were duly complied with by the International Commission on Zoological Nomenclature in dealing with the present case, and the present *Opinion* is accordingly hereby rendered in the name of the said International Commission by the under-signed Francis Hemming, Secretary to the International Commission on Zoological Nomenclature, in virtue of all and every the powers conferred upon him in that behalf.

22. The present *Opinion* shall be known as Opinion Three Hundred and Thirty-Nine (339) of the International Commission on Zoological Nomenclature.

DONE in London, this Eighteenth day of October, Nineteen Hundred and Fifty-Four.

*Secretary to the International Commission
on Zoological Nomenclature*

FRANCIS HEMMING